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March 8, 2006

By E-Filing and Hand Delivery

The Honorable Kent A. Jordan
United States District Court
for the District of Delaware
844 North King Street
Wilmington, DE 19801

Re: *Honeywell Int'l, Inc., et al. v. Audiovox Comm. Corp., et al.*,
C.A. No. 04-1337-KAJ
Honeywell Int'l, Inc., et al. v. Apple Computer, Inc., et al.,
C.A. No. 04-1338-KAJ
Optrex America, Inc. v. Honeywell Int'l, Inc., et al.,
C.A. No. 04-1536-KAJ

Dear Judge Jordan:

I am writing on behalf of Optrex America, Inc. ("Optrex") in the above-referenced matters to inform Your Honor of the reasons for the discovery limitations and trial format requested by Optrex in the Proposed Scheduling Order submitted to the Court today.

Turning first to the number of deposition hours to be afforded each side, Honeywell's proposal is inadequate. Honeywell offers to make its witnesses (including the inventors of the patent in suit) available for 100 hours of deposition for common issues, 10 additional hours for each defendant family to inquire into party-specific issues, and 75 hours per side to conduct third party discovery. Optrex proposes that Honeywell make its witnesses available for 150 hours for common issues, 21 additional hours per defendant family for party specific issues, and 112 hours per side for third party discovery. The basis for the Optrex's request for additional deposition hours is set forth briefly below.

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The patent in suit was filed in 1992. In the late 1980s and early 1990s a number of groups in the United States worked on developing LCD backlights that utilized lens arrays like those claimed in the patent in suit. In addition to one or more groups at Honeywell, groups at Compaq, IBM, 3M, Optical Imaging Systems, NiOptics, and perhaps others were directly or indirectly working to develop such LCD modules. Since that time, Optrex understands that virtually all of the relevant individuals (perhaps as many as two dozen) who worked in these groups have moved on to other employment. Consequently, these individuals are scattered far and wide across the country. Moreover, many of the relevant companies either changed names or were sold to still other companies (e.g., Hewlett-Packard purchased Compaq, Optical Imaging System was purchased by Guardian Industries, etc.). As a result, many of the supporting documents have changed hands. This fact will necessitate a separate round of depositions to authenticate the third party records at issue. For these reasons, the 75 hour time limit on third party depositions proposed by Honeywell is inadequate.

In addition to substantial third party discovery, extensive discovery will be needed from Honeywell. First, the depositions of the three inventors of the patent in suit and the two prosecuting attorneys will be taken. Second, depositions will be required to determine which individuals and groups within Honeywell and its predecessors were developing relevant LCD displays in the early 1990s. Honeywell and its predecessors also apparently worked closely with some of the third parties noted above to develop LCD modules and those relationships will need to be explored.

Depositions of an additional group of Honeywell (or former Honeywell) employees will be necessary to determine whether Honeywell ever practiced the invention, or if the invention was simply unused for the decade prior to the filing of this suit. This inquiry relates to the fact that any damages due to Honeywell from Optrex would be based on a reasonable royalty resulting from a hypothetical negotiation between Honeywell and Optrex in the mid 1990s.

With respect to the discovery period required in this case, Optrex notes that Honeywell filed its complaint nearly 17 months ago. All parties, including the manufacturers now being formally added to the case, have long been aware that this case is moving forward and that discovery relating to accused modules will take place. Given that all parties have been on notice for such a long time, Optrex respectfully suggests that the 14 month discovery period (as proposed by Honeywell and other Manufacturing Defendants) is unnecessary. The 11 month discovery period proposed by Optrex provides ample time.

Finally, the Optrex proposal for handling trial reflects the reality that a single joint trial of all Manufacturer Defendant families is unmanageable. Instead, Optrex proposes a lead defendant (Optrex) and a first two-party trial with Optrex and Honeywell on all issues, with 22 hours per side, prior to trial between Honeywell and the remaining Manufacturer Defendants. Once the Optrex trial has been completed, it is quite likely that issues common to other defendants will not need to be relitigated in later trials. Thus, the Optrex proposal permits a simple and efficient way for the Court to manage the trial of these consolidated cases.

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Optrex is available at Your Honor's convenience to answer any questions concerning its proposals, and Optrex looks forward to discussing this matter during the Court's scheduling conference on March 13th.

Respectfully submitted,

A handwritten signature in black ink, reading "Karen L. Pascale". The signature is written in a cursive, flowing style.

Karen L. Pascale (#2903)
[kpascale@ycst.com]

cc: Clerk of Court (by CMF/ECF E-Filing)
CM/ECF Counsel of Record (by E-Filing)